IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 8597 OF 2005 .

Shri Krishnaji B. Lokhande & ors.... Petitioners.
V/s.
Smt. Savitribai G. Dangat & ors... Respondents.

Shri A.M. Joshi for the petitioner.

Shri A.P.Vanarse for respondent Nos.1 to 5.

CORAM : V.C.DAGA, J.

DATED : 18.3.2006.

P.C. :

. Rule returnable forthwith.

. Perused petition.

. Shri Vanarse waives service on behalf of respondent Nos. 1 to 5. Heard finally by consent of parties.

2. This petition is directed against two orders passed by the Joint Civil Judge, SD, Pune, both dated 24.10.2005 below Ex.146 and 154 in Special Civil Suit No. 187 of 2001, seeking to amend written statement and counterclaim.

3. Shri Joshi, learned Counsel appearing for the petitioners had filed purshis on the last date of hearing i.e. 13.3.2006 stating therein that, in

the event; present petition is, ultimately, allowed, the petitioners would not seek opportunity to lead oral evidence in the pending Reg.Civil Suit No. 187/2001.

4. On being asked, Shri Joshi specifically submitted that he does not want to lead even documentary evidence since 7/12 extracts of the suit property are already on record.

5. Shri Vanarse,learned Counsel appearing for the respondents submitted that issue as to whether or not amendment is to be allowed is within the discretion of the Court. He left the decision of the petition to the discretion of this Court.

6. If the petitioners are not to lead any evidence either oral or documentary , I do not see any difficulty in permitting the petitioner to amend written statement and counterclaim as the same is necessary for fair trial of the suit.

7. In the event; such amendment is allowed, there is no possibility of it causing any delay in the trial of the Court, as the trial Court can immediately proceed to hear the suit as soon as petitioners carry out ncessary amendment to their pleadings.

8. Considering nature of amendments and considering consensus between the parties petition is allowed. Both the orders referred to hereinabove are quashed and set arise. The petitioners are permitted to carry out amendment in their written statement and counterclaim within one week from today. The trial Court, thereafter, shall proceed to hear the suit in accordance with law as expeditiously as possible.

6. Petition stands disposed of. Rule is made absolute in terms of this order with no order as to costs.

(V.C.DAGA,J.)